



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

Appendix A

LRB BILL HISTORY RESEARCH APPENDIX

The drafting file for 2013 LRB-1147/2 (For: Rep.Loudenbeck)

has been copied/added to the drafting file for

2013 LRB-2997 (For: Rep.Loudenbeck)

Are These "Companion Bills" ?? ... No



RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 08/26/2013 (Per: MPG)

The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as a appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

2013 DRAFTING REQUEST

Bill

Received:	1/14/2013	Received By:	mgallagh
Wanted:	As time permits	Same as LRB:	
For:	Amy Loudenbeck (608) 266-9967	By/Representing:	Lana
May Contact:		Drafter:	mgallagh
Subject:	Econ. Development - bus. dev. Econ. Development - misc.	Addl. Drafters:	
		Extra Copies:	JK, RAC, FFK

Submit via email: **YES**
 Requester's email: **Rep.Loudenbeck@legis.wisconsin.gov**
 Carbon copy (CC) to: **michael.gallagher@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Transferability of tax credits related to economic development

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mgallagh 2/14/2013	scalvin 2/27/2013	rschluet 2/27/2013	_____			
/1	mgallagh 8/13/2013	scalvin 8/15/2013	rschluet 8/15/2013	_____	sbasford 2/27/2013		
/2				_____	sbasford 8/15/2013		

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

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Econ. Development - misc. Addl. Drafters:
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/?	mgallagh 2/14/2013	scalvin 2/27/2013	rschluet 2/27/2013	_____			
/1		1/2 sac 08/15/2013		sb _____	sbasford 2/27/2013		

FE Sent For:

<END>

2013 DRAFTING REQUEST

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Submit via email: YES
Requester's email: Rep.Loudenbeck@legis.wisconsin.gov
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Instructions:

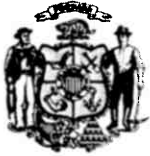
See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	mgallagh	1/1 SAC 02/27/2013					

FE Sent For:

<END>



Jan 2/14
State of Wisconsin
2011 - 2012 LEGISLATURE



LRB 0305/1
MPG&JKld&med:fm

SAC

ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2011 ASSEMBLY BILL 376

-1147/1

D-Note

Insert

February 22, 2012 - Offered by Representative KNILANS.

- 1 AN ACT *to create* 238.137 of the statutes; relating to: authorizing the transfer
2 of tax credits earned in connection with economic development in this state.

Analysis by the Legislative Reference Bureau

Under current law, a tax credit awarded by the Wisconsin Economic Development Corporation (corporation) may normally only be claimed by the person certified by the corporation to claim that credit; the credit may not be transferred to another person.

This substitute amendment directs the corporation to create a program for the transfer of tax credits awarded by the corporation. Under the substitute amendment, the corporation may authorize the transfer of a portion of a tax credit if the corporation determines that the person meets at least one of the following additional conditions: *in addition to being certified by the corporation*

1. The person is headquartered in, and employs at least 51 percent of its employees in, Wisconsin.
2. The person intends to relocate its headquarters to, and employ at least 51 percent of its employees in, Wisconsin.
3. The person intends to expand its operations in Wisconsin, and that expansion will increase the number of full-time employees employed by the person in Wisconsin by a number that is at least 10 percent of the person's full-time employees.

equals

bill

to giving the tax credit

4. The person intends to expand its operations in Wisconsin, and the person will make a significant capital investment in property in Wisconsin as a result of that expansion.

Once the corporation authorizes a person to transfer a tax credit, that person may transfer up to 85 percent of the tax credit to another person who has Wisconsin tax liability, except that no tax credit may be transferred under the substitute amendment in exchange for money. The person transferring the credit must notify the corporation and the Department of Revenue of that transfer. The person to whom a credit is transferred may carry forward any unused amount of the transferred value of that credit for up to 15 years until fully claimed. Also, the corporation may prevent that transferee from claiming the tax credit for up to three years after the credit is transferred.

~~The substitute amendment also authorizes the corporation to waive or modify a requirement of a certification for a tax credit issued by the corporation if a person who may transfer the tax credit applies to the corporation for that waiver or modification and the corporation determines that the requested waiver or modification will support economic development in Wisconsin. The substitute amendment does not otherwise relieve any person of the person's responsibilities in connection with a tax credit certification. If the corporation revokes a person's certification for a tax credit and that person has already transferred a portion of the tax credit, that person, not the person to whom the credit was transferred, must repay the full amount of the tax credit to the state.~~

Under the substitute amendment, the corporation may authorize the transfer of up to \$10,000,000 in partial tax credits over five years. However, if after reaching that 5-year limit, the corporation determines that an extension of the program will support significant economic development in Wisconsin, the corporation may continue the program for up to an additional five years and authorize transfer of up to an additional \$10,000,000 in partial tax credits. However, any such extension of the program is subject to passive review by the Joint Committee on Finance.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 SECTION 1. 238.137 of the statutes is created to read:
- 2 238.137 Pilot program for the transfer of tax credits earned for
- 3 economic development in this state. (1) APPLICATION AND CORPORATION
- 4 AUTHORIZATION. (a) A person who the corporation certifies or otherwise authorizes
- 5 to claim a tax credit may apply to the corporation on a form prescribed by the
- 6 corporation for authorization to transfer that tax credit under this section. The

IF the corporation is unable to collect the full amount of a ^{tax} revoked credit from the person certified to claim the credit, then the corporation may collect the unpaid amount

b.11

Under the bill

the

the person to whom the credit was transferred if the person has not claimed the credit

1 corporation shall notify the person of the corporation's determination within 10
2 business days after the corporation receives the application. *May*

3 (b) The corporation *shall* authorize the transfer of a tax credit if a person
4 applies for an authorization under par. (a) and the corporation finds that the person
5 meets at least one of the following conditions:

6 1. The person is headquartered and employs at least 51 percent of its employees
7 in this state.

8 2. The person intends to relocate its headquarters to this state and employ at
9 least 51 percent of its employees in this state.

10 3. The person intends to expand its operations in this state, and that expansion
11 will result in an increase in the number of full-time employees employed by the
12 person in an amount equal to at least 10 percent of the person's full-time workforce

in this state
13 at the time of application.

14 4. The person intends to expand its operations in this state, and that expansion
15 will result in the person making a significant capital investment in property located
16 in this state, as determined by the corporation.

17 (c) 1. Subject to subd. 2. and sub. (2), a person may transfer a tax credit to
18 another person who is subject to taxation under ch. 71 if the corporation authorizes
19 that transfer and if the person who is certified to claim the credit notifies the
20 department of revenue and the corporation of the transfer in the manner prescribed
21 by the corporation. The person to whom a tax credit is transferred may carry forward
22 any unused amount of the transferred value of that credit as provided under the
23 appropriate provision in ch. 71.

24 2. A tax credit may not be transferred under this paragraph in exchange for
25 money.

1 (d) The corporation may, as a condition of an authorization under this
2 subsection, prohibit a person to whom the tax credit is transferred from claiming that
3 credit for a period not to exceed 3 years after the date on which the credit is
4 transferred.

5 (2) LIMITATIONS ON THE TRANSFER OF TAX CREDITS. A person may not transfer
6 more than 85 percent of the total value of a tax credit. Once a portion of a tax credit
7 is transferred under this section, the remaining portion of that credit may not be
8 transferred and may not be claimed against tax liability by any person.

9 (3) CORPORATION WAIVER OF CERTIFICATION REQUIREMENTS. Notwithstanding s.
10 238.303 (2) or any other provision of this chapter or of ch. 71, the corporation may
11 modify or waive any requirement of a certification or other authorization to claim a
12 tax credit that was issued by the corporation if all of the following conditions are met:

13 (a) The person subject to the requirement applies to the corporation for a
14 modification or waiver of that requirement in the manner prescribed by the
15 corporation.

16 (b) The corporation authorizes the person to transfer the tax credit under this
17 section, and the person does transfer the credit, as authorized.

18 (c) The corporation determines that the requested modification or waiver will
19 support economic development in this state.

20 (4) REPAYMENT. (a) If the corporation revokes a person's certification or other
21 authorization to claim a tax credit issued by the corporation and at the time of
22 revocation that person has transferred a portion of that credit under this section,
23 that person shall repay the full amount of the credit to the corporation
24 notwithstanding that transfer.

1 (b) The corporation shall pay any amounts it receives under par. (a) to the
2 secretary of administration for deposit in the general fund.

3 (5) PROGRAM LIMITS AND TERMINATION. (a) Except as provided in par. (b), the
4 corporation may not authorize the transfer of portions of tax credits under this
5 section that total more than \$10,000,000, and the corporation may not authorize the
6 transfer of a tax credit after 60 months after the effective date of this paragraph
7 [LRB inserts date].

8 (b) Upon expiration of the 60-month period under par. (a), the corporation may
9 continue to authorize the transfer of tax credits under this section for up to an
10 additional 60 months, and the corporation may authorize the transfer of up to an
11 additional \$10,000,000 in partial tax credits, if the corporation determines that a
12 continuation of the program under this section will promote significant economic
13 development in this state. Before the corporation authorizes the transfer of a tax
14 credit under this paragraph, the chief executive officer of the corporation shall notify
15 the joint committee on finance in writing that the corporation intends to continue
16 authorizing the transfer of tax credits under this section. That notice shall state the
17 reasons supporting the corporation's determination that the transfer of additional
18 tax credits will promote significant economic development in this state. If, within
19 14 working days after the date of that notice, the cochairpersons of the committee do
20 not notify the corporation that the committee has scheduled a meeting to review the
21 corporation's proposed continuation of the program, the corporation may proceed to
22 authorize the transfer of additional tax credits under this section. If, within 14
23 working days after the date of that notice, the cochairpersons of the committee notify
24 the corporation that the committee has scheduled a meeting to review the proposed

1 continuation of the program, the corporation may proceed to authorize the transfer
2 of partial tax credits only upon approval of the committee.

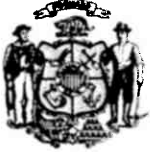
3 **SECTION 2. Initial applicability.**

4 (1) This act first applies to a certification or other authorization to claim a tax
5 credit issued by the Wisconsin Economic Development Corporation on January 1,
6 2010.

7

(END)

3



State of Wisconsin
2011 - 2012 LEGISLATURE



LRBa2483/1
MPG:jld:jf

**ASSEMBLY AMENDMENT 1,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2011 ASSEMBLY BILL 376**

February 27, 2012 - Offered by Representative KNILANS.

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 4, line 4: after that line insert:

3 (e) The corporation may not authorize the transfer of a tax credit under this
4 subsection if the person applying for authorization under par. (a) has not satisfied
5 any requirement that the corporation determines is a condition precedent to claim
6 the tax credit, unless the corporation waives or modifies that requirement under sub.
7

8 2. Page 4, line 20: after "(a)" insert "1."

9 3. Page 4, line 24: after that line insert:

10 2. If the corporation is unable to recover under subd. 1. the amount of a tax
11 credit that the corporation authorized to be transferred and that was transferred to
12 another person under this section, the corporation shall notify the department of

This is Insert 4-24

This is insert 4-24, conclusion

1 revenue that the tax credit has been revoked and may not be claimed, and the person
2 to whom the tax credit was transferred may not claim the credit and shall repay to
3 the corporation any amount of the credit the person has claimed."

4 4. Page 5, line 2: after that line insert:

5 (4f) ANNUAL REPORT. Annually, the corporation shall submit a report to the
6 joint committee on finance that provides a detailed assessment of the progress to date
7 of the program under this section."

8 (END)

This is insert 5-2

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

INSERT A

This bill requires that, if those rules allow bidders to protest or appeal decisions regarding the award of a service contract and if DOA or its agent receives a timely notice of intent to protest or appeal a decision or a timely protest or appeal, DOA or its agent may not proceed with contractual services until a decision is made on the protest or appeal.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1147/1dn

MPG:...)...

SAC

- date -

Representative Loudenbeck:

Please review this draft carefully to ensure that it is consistent with your intent.

This is a redraft of Assembly Substitute Amendment 1 to 2011 AB 376. The redraft incorporates Assembly Amendments 1, 4, and 5 to Assembly Substitute Amendment 1. I also made other minor technical edits to the draft.

Please do not hesitate to contact me if you have any questions.

Thank you.

Michael Gallagher
Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1147/1dn
MPG:sac:rs

February 27, 2013

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Please do not hesitate to contact me if you have any questions.

Thank you.

Michael Gallagher
Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov

Gallagher, Michael

From: Morouney, Lonna
Sent: Monday, August 12, 2013 2:55 PM
To: Gallagher, Michael
Subject: Re: Revisions to LRB 1147/1

Thanks!

Sent from my iPhone

On Aug 12, 2013, at 2:52 PM, "Gallagher, Michael" <Michael.Gallagher@legis.wisconsin.gov> wrote:

I'll double-check the current draft, but I think that if you want to limit the draft to an exchange of value (not money) connected with the project for which the tax credits were earned, we need to add language to that effect. I'll take care of it and get the redraft out.

Mike

From: Morouney, Lonna
Sent: Monday, August 12, 2013 2:45 PM
To: Gallagher, Michael
Subject: Re: Revisions to LRB 1147/1

Yes that was the intention. If you think the language is unnecessary, please do not include it. Thanks!

Sent from my iPhone

On Aug 12, 2013, at 9:38 AM, "Gallagher, Michael" <Michael.Gallagher@legis.wisconsin.gov> wrote:

With respect to number 1, below, is the intent that a tax credit may only be transferred in exchange for a financial benefit connected to the project? Note that under the current language in the draft, such a transfer is not prohibited.

Thanks.

Mike

Mike Gallagher
Attorney
Wisconsin Legislative Reference Bureau
(608) 267-7511

From: Morouney, Lonna
Sent: Thursday, August 08, 2013 1:48 PM
To: Gallagher, Michael
Cc: Loudenbeck, Amy
Subject: Revisions to LRB 1147/1

Mike,

Please make the following revisions to the tax credit transferability bill, LRB 1147/1:

1: Page 3 line 20 after money. Insert new sentence: A tax credit may be transferred under this paragraph in exchange for other financial benefit that accrues to the transferor to the extent that the transfer is connected to the project for which the tax credit was initially awarded.

2: On page two in the analysis and again on page 3, line 23, change that to one year instead of 3.

3: On page two, line 2, change from ten to 30 business days.

4: The bill gives WEDC 60 months, shorten that to 36 months.

5: Increase from \$10m to \$15m

If you have any questions, please let me know. Thank you!

Lonna

Lonna Morouney
Research Assistant
Committee Clerk for Assembly Committee on Workforce Development
Office of Representative Amy Loudenbeck
31st Assembly District

Office 209 North
PO Box 8952
Madison, WI 53708
608-266-9967 Toll free: (888) 529-0031
Lonna.morouney@legis.wi.gov

Gallagher, Michael

From: Morouney, Lonna
Sent: Thursday, August 08, 2013 1:48 PM
To: Gallagher, Michael
Cc: Loudenbeck, Amy
Subject: Revisions to LRB 1147/1

Mike,

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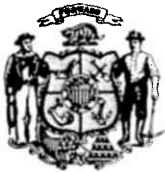
- 1: Page 3 line 20 after money. Insert new sentence: A tax credit may be transferred under this paragraph in exchange for other financial benefit that accrues to the transferor to the extent that the transfer is connected to the project for which the tax credit was initially awarded. ✓
- 2: On page two in the analysis and again on page 3, line 23, change that to one year instead of 3. ✓
- 3: On page two, line 2, change from ten to 30 business days. ✓
- 4: The bill gives WEDC 60 months, shorten that to 36 months. ✓
- 5: Increase from \$10m to \$15m ✓

If you have any questions, please let me know. Thank you!

Lonna

Lonna Morouney
Research Assistant
Committee Clerk for Assembly Committee on Workforce Development
Office of Representative Amy Loudenbeck
31st Assembly District

Office 209 North
PO Box 8952
Madison, WI 53708
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Lonna.morouney@legis.wi.gov



Tr. 8/13 Thru 145
State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1147(1)
MPG&JK:sac:fs
4

2013 BILL

12

Gen cat

- 1 AN ACT *to create* 238.137 of the statutes; **relating to:** authorizing the transfer
2 of tax credits earned in connection with economic development in this state.

Analysis by the Legislative Reference Bureau

Under current law, a tax credit awarded by the Wisconsin Economic Development Corporation (corporation) may normally only be claimed by the person certified by the corporation to claim that credit; the credit may not be transferred to another person.

This bill directs the corporation to create a program for the transfer of tax credits awarded by the corporation. Under the bill, the corporation may authorize the transfer of a portion of a tax credit if the corporation determines that the person meets at least one of the following conditions in addition to being certified by the corporation to claim the tax credit:

1. The person is headquartered in, and employs at least 51 percent of its employees in, Wisconsin.
2. The person intends to relocate its headquarters to, and employ at least 51 percent of its employees in, Wisconsin.
3. The person intends to expand its operations in Wisconsin, and that expansion will increase the number of full-time employees employed by the person in Wisconsin by a number that equals at least 10 percent of the person's full-time employees.
4. The person intends to expand its operations in Wisconsin, and the person will make a significant capital investment in property in Wisconsin as a result of that expansion.

BILL

Valuable
Some consideration, other than money, in connection with the project or activity for which the tax credit was awarded

Once the corporation authorizes a person to transfer a tax credit, that person may transfer up to 85 percent of the tax credit to another person who has Wisconsin tax liability, except that ~~no~~ tax credit may be transferred under the bill in exchange for money. The person transferring the credit must notify the corporation and the Department of Revenue of that transfer. The person to whom a credit is transferred may carry forward any unused amount of the transferred value of that credit for up to 15 years until fully claimed. Also, the corporation may prevent that transferee from claiming the tax credit for up to ~~three~~ years after the credit is transferred.

Under the bill, if the corporation revokes a person's certification for a tax credit and that person has already transferred a portion of the tax credit, that person must repay the full amount of the tax credit to the state. If the corporation is unable to collect the full amount of a revoked tax credit from the person certified to claim the credit, then the corporation may collect the unpaid amount from the person to whom the credit was transferred if that person has claimed the credit.

Under the bill, the corporation may authorize the transfer of up to \$10,000,000 in partial tax credits over ~~five~~ years. However, if after reaching that ~~five~~-year limit, the corporation determines that an extension of the program will support significant economic development in Wisconsin, the corporation may continue the program for up to an additional ~~five~~ years and authorize the transfer of up to an additional \$10,000,000 in partial tax credits. However, any such extension of the program is subject to passive review by the Joint Committee on Finance.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 238.137 of the statutes is created to read:

2 **238.137 Pilot program for the transfer of tax credits earned for**
3 **economic development in this state. (1) APPLICATION AND CORPORATION**
4 **AUTHORIZATION.** (a) A person who the corporation certifies or otherwise authorizes
5 to claim a tax credit may apply to the corporation on a form prescribed by the
6 corporation for authorization to transfer that tax credit under this section. The
7 corporation shall notify the person of the corporation's determination within 10
8 business days after the corporation receives the application. 30

9 (b) The corporation may authorize the transfer of a tax credit if a person applies
10 for an authorization under par. (a) and the corporation finds that the person meets
11 at least one of the following conditions:

BILL

1 1. The person is headquartered and employs at least 51 percent of its employees
2 in this state.

3 2. The person intends to relocate its headquarters to this state and employ at
4 least 51 percent of its employees in this state.

5 3. The person intends to expand its operations in this state, and that expansion
6 will result in an increase in the number of full-time employees employed by the
7 person in this state in an amount equal to at least 10 percent of the person's full-time
8 workforce in this state at the time of application.

9 4. The person intends to expand its operations in this state, and that expansion
10 will result in the person making a significant capital investment in property located
11 in this state, as determined by the corporation.

12 (c) 1. Subject to subd. 2. and sub. (2), a person may transfer a tax credit to
13 another person who is subject to taxation under ch. 71 if the corporation authorizes
14 that transfer and if the person who is certified to claim the credit notifies the
15 department of revenue and the corporation of the transfer in the manner prescribed
16 by the corporation. The person to whom a tax credit is transferred may carry forward
17 any unused amount of the transferred value of that credit as provided under the
18 appropriate provision in ch. 71.

19 2. A tax credit may ~~not~~ be transferred under this paragraph ^{only} in exchange for

20 ~~money~~

21 (d) The corporation may, as a condition of an authorization under this
22 subsection, prohibit a person to whom the tax credit is transferred from claiming that
23 credit for a period not to exceed 3 years after the date on which the credit is
24 transferred.

Some consideration, other than one
money, in connection with the
project or economic activity for
which the tax credit was initially awarded

BILL

1 (e) The corporation may not authorize the transfer of a tax credit under this
2 subsection if the person applying for authorization under par. (a) has not satisfied
3 any requirement that the corporation determines is a condition precedent to claim
4 the tax credit.

5 (2) LIMITATIONS ON THE TRANSFER OF TAX CREDITS. A person may not transfer
6 more than 85 percent of the total value of a tax credit. Once a portion of a tax credit
7 is transferred under this section, the remaining portion of that credit may not be
8 transferred and may not be claimed against tax liability by any person.

9 (3) REPAYMENT. (a) 1. If the corporation revokes a person's certification or other
10 authorization to claim a tax credit issued by the corporation and at the time of
11 revocation that person has transferred a portion of that credit under this section,
12 that person shall repay the full amount of the credit to the corporation
13 notwithstanding that transfer.

14 2. If the corporation is unable to recover under subd. 1. the amount of a tax
15 credit that the corporation authorized to be transferred and that was transferred to
16 another person under this section, the corporation shall notify the department of
17 revenue that the tax credit has been revoked and may not be claimed, and the person
18 to whom the tax credit was transferred may not claim the credit and shall repay to
19 the corporation any amount of the credit the person has claimed.

20 (b) The corporation shall pay any amounts it receives under par. (a) to the
21 secretary of administration for deposit in the general fund.

22 (4) ANNUAL REPORT. Annually, the corporation shall submit a report to the joint
23 committee on finance that provides a detailed assessment of the progress to date of
24 the program under this section.

BILL

(5) PROGRAM LIMITS AND TERMINATION. (a) Except as provided in par. (b), the corporation may not authorize the transfer of portions of tax credits under this section that total more than \$10,000,000, and the corporation may not authorize the transfer of a tax credit after 60 months after the effective date of this paragraph [LRB inserts date].

(b) Upon expiration of the 60-month period under par. (a), the corporation may continue to authorize the transfer of tax credits under this section for up to an additional 60 months, and the corporation may authorize the transfer of up to an additional \$10,000,000 in partial tax credits, if the corporation determines that a continuation of the program under this section will promote significant economic development in this state. Before the corporation authorizes the transfer of a tax credit under this paragraph, the chief executive officer of the corporation shall notify the joint committee on finance in writing that the corporation intends to continue authorizing the transfer of tax credits under this section. That notice shall state the reasons supporting the corporation's determination that the transfer of additional tax credits will promote significant economic development in this state. If, within 14 working days after the date of that notice, the cochairpersons of the committee do not notify the corporation that the committee has scheduled a meeting to review the corporation's proposed continuation of the program, the corporation may proceed to authorize the transfer of additional tax credits under this section. If, within 14 working days after the date of that notice, the cochairpersons of the committee notify the corporation that the committee has scheduled a meeting to review the proposed continuation of the program, the corporation may proceed to authorize the transfer of partial tax credits only upon approval of the committee.

SECTION 2. Initial applicability.

BILL

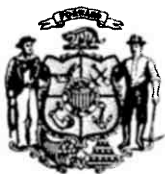
1 (1) This act first applies to a certification or other authorization to claim a tax
2 credit issued by the Wisconsin Economic Development Corporation on January 1,

3 2013.

4 (END)

*taxable
taxable year
beginning*

2014



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1147/2
MPG&JK:sac:rs

2013 BILL

- 1 **AN ACT** *to create* 238.137 of the statutes; **relating to:** authorizing the transfer
2 of tax credits earned in connection with economic development in this state.

Analysis by the Legislative Reference Bureau

Under current law, a tax credit awarded by the Wisconsin Economic Development Corporation (corporation) may normally only be claimed by the person certified by the corporation to claim that credit; the credit may not be transferred to another person.

This bill directs the corporation to create a program for the transfer of tax credits awarded by the corporation. Under the bill, the corporation may authorize the transfer of a portion of a tax credit if the corporation determines that the person meets at least one of the following conditions in addition to being certified by the corporation to claim the tax credit:

1. The person is headquartered in, and employs at least 51 percent of its employees in, Wisconsin.
2. The person intends to relocate its headquarters to, and employ at least 51 percent of its employees in, Wisconsin.
3. The person intends to expand its operations in Wisconsin, and that expansion will increase the number of full-time employees employed by the person in Wisconsin by a number that equals at least 10 percent of the person's full-time employees.
4. The person intends to expand its operations in Wisconsin, and the person will make a significant capital investment in property in Wisconsin as a result of that expansion.

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Once the corporation authorizes a person to transfer a tax credit, that person may transfer up to 85 percent of the tax credit to another person who has Wisconsin tax liability, if that tax credit is transferred under the bill in exchange for some valuable consideration, other than money, in connection with the project or activity for which the tax credit was awarded. The person transferring the credit must notify the corporation and the Department of Revenue of that transfer. The person to whom a credit is transferred may carry forward any unused amount of the transferred value of that credit for up to 15 years until fully claimed. Also, the corporation may prevent that transferee from claiming the tax credit for up to one year after the credit is transferred.

Under the bill, if the corporation revokes a person's certification for a tax credit and that person has already transferred a portion of the tax credit, that person must repay the full amount of the tax credit to the state. If the corporation is unable to collect the full amount of a revoked tax credit from the person certified to claim the credit, then the corporation may collect the unpaid amount from the person to whom the credit was transferred if that person has claimed the credit.

Under the bill, the corporation may authorize the transfer of up to \$15,000,000 in partial tax credits over three years. However, if after reaching that three-year limit, the corporation determines that an extension of the program will support significant economic development in Wisconsin, the corporation may continue the program for up to an additional three years and authorize the transfer of up to an additional \$15,000,000 in partial tax credits. However, any such extension of the program is subject to passive review by the Joint Committee on Finance.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 238.137 of the statutes is created to read:

2 **238.137 Pilot program for the transfer of tax credits earned for**
3 **economic development in this state. (1) APPLICATION AND CORPORATION**
4 **AUTHORIZATION.** (a) A person who the corporation certifies or otherwise authorizes
5 to claim a tax credit may apply to the corporation on a form prescribed by the
6 corporation for authorization to transfer that tax credit under this section. The
7 corporation shall notify the person of the corporation's determination within 30
8 business days after the corporation receives the application.

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1 (b) The corporation may authorize the transfer of a tax credit if a person applies
2 for an authorization under par. (a) and the corporation finds that the person meets
3 at least one of the following conditions:

4 1. The person is headquartered and employs at least 51 percent of its employees
5 in this state.

6 2. The person intends to relocate its headquarters to this state and employ at
7 least 51 percent of its employees in this state.

8 3. The person intends to expand its operations in this state, and that expansion
9 will result in an increase in the number of full-time employees employed by the
10 person in this state in an amount equal to at least 10 percent of the person's full-time
11 workforce in this state at the time of application.

12 4. The person intends to expand its operations in this state, and that expansion
13 will result in the person making a significant capital investment in property located
14 in this state, as determined by the corporation.

15 (c) 1. Subject to subd. 2. and sub. (2), a person may transfer a tax credit to
16 another person who is subject to taxation under ch. 71 if the corporation authorizes
17 that transfer and if the person who is certified to claim the credit notifies the
18 department of revenue and the corporation of the transfer in the manner prescribed
19 by the corporation. The person to whom a tax credit is transferred may carry forward
20 any unused amount of the transferred value of that credit as provided under the
21 appropriate provision in ch. 71.

22 2. A tax credit may be transferred under this paragraph only in exchange for
23 some consideration, other than money, in connection with the project or economic
24 activity for which the tax credit was initially awarded.

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1 (d) The corporation may, as a condition of an authorization under this
2 subsection, prohibit a person to whom the tax credit is transferred from claiming that
3 credit for a period not to exceed one year after the date on which the credit is
4 transferred.

5 (e) The corporation may not authorize the transfer of a tax credit under this
6 subsection if the person applying for authorization under par. (a) has not satisfied
7 any requirement that the corporation determines is a condition precedent to claim
8 the tax credit.

9 (2) LIMITATIONS ON THE TRANSFER OF TAX CREDITS. A person may not transfer
10 more than 85 percent of the total value of a tax credit. Once a portion of a tax credit
11 is transferred under this section, the remaining portion of that credit may not be
12 transferred and may not be claimed against tax liability by any person.

13 (3) REPAYMENT. (a) 1. If the corporation revokes a person's certification or other
14 authorization to claim a tax credit issued by the corporation and at the time of
15 revocation that person has transferred a portion of that credit under this section,
16 that person shall repay the full amount of the credit to the corporation
17 notwithstanding that transfer.

18 2. If the corporation is unable to recover under subd. 1. the amount of a tax
19 credit that the corporation authorized to be transferred and that was transferred to
20 another person under this section, the corporation shall notify the department of
21 revenue that the tax credit has been revoked and may not be claimed, and the person
22 to whom the tax credit was transferred may not claim the credit and shall repay to
23 the corporation any amount of the credit the person has claimed.

24 (b) The corporation shall pay any amounts it receives under par. (a) to the
25 secretary of administration for deposit in the general fund.

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1 (4) ANNUAL REPORT. Annually, the corporation shall submit a report to the joint
2 committee on finance that provides a detailed assessment of the progress to date of
3 the program under this section.

4 (5) PROGRAM LIMITS AND TERMINATION. (a) Except as provided in par. (b), the
5 corporation may not authorize the transfer of portions of tax credits under this
6 section that total more than \$15,000,000, and the corporation may not authorize the
7 transfer of a tax credit after 36 months after the effective date of this paragraph
8 [LRB inserts date].

9 (b) Upon expiration of the 36-month period under par. (a), the corporation may
10 continue to authorize the transfer of tax credits under this section for up to an
11 additional 36 months, and the corporation may authorize the transfer of up to an
12 additional \$15,000,000 in partial tax credits, if the corporation determines that a
13 continuation of the program under this section will promote significant economic
14 development in this state. Before the corporation authorizes the transfer of a tax
15 credit under this paragraph, the chief executive officer of the corporation shall notify
16 the joint committee on finance in writing that the corporation intends to continue
17 authorizing the transfer of tax credits under this section. That notice shall state the
18 reasons supporting the corporation's determination that the transfer of additional
19 tax credits will promote significant economic development in this state. If, within
20 14 working days after the date of that notice, the cochairpersons of the committee do
21 not notify the corporation that the committee has scheduled a meeting to review the
22 corporation's proposed continuation of the program, the corporation may proceed to
23 authorize the transfer of additional tax credits under this section. If, within 14
24 working days after the date of that notice, the cochairpersons of the committee notify
25 the corporation that the committee has scheduled a meeting to review the proposed

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1 continuation of the program, the corporation may proceed to authorize the transfer
2 of partial tax credits only upon approval of the committee.

3 **SECTION 2. Initial applicability.**

4 (1) This act first applies to taxable years beginning on January 1, 2014.

5 (END)